

Department of Energy

Merit Review Guide

For

Financial Assistance



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MERIT REVIEW GUIDE FOR FINANCIAL ASSISTANCE

I. INTRODUCTION

Purpose: This document provides guidance on conducting merit reviews of financial assistance applications. While program/project officials are encouraged to tailor this guidance to their specific programs, merit reviews should be conducted in a manner consistent with the guidelines presented in this document.

The guidance provided in this guide implement the objective merit review provisions of the Department of Energy (DOE) Financial Assistance Regulations at 10 CFR 600.13. Specifically, this guidance is for financial assistance applications received competitively and noncompetitively. This guide also provides guidance for establishing peer and merit review panels, naming a Federal Merit Review Chairperson, conducting merit reviews, and preparing a Merit Review Advisory Report for the Selection Official.

Applicability: This guidance applies to merit reviews of financial assistance applications which will result in new or renewal cooperative agreement or grant awards. Merit reviews are required for all discretionary financial assistance awards: competitive and noncompetitive grants and cooperative agreements. This guidance may be supplemented or supplanted by statute or program rule, e.g. 10 CFR 605, The Office of Science's Financial Assistance Program, or 10 CFR 602, Epidemiology and Other Health Studies Financial Assistance Program.

This guidance is intended to help DOE staff carry out its financial assistance activities. Information contained herein is intended to be consistent with the regulatory guidance provided in the DOE Financial Assistance Regulations (10 CFR 600). In the event of inconsistencies between the information provided in this Guide and provisions of the DOE Financial Assistance Regulations, the regulations controls. Any apparent inconsistencies between this guide and the DOE Financial Assistance Regulations should be reported to the Contract and Financial Assistance Policy Division (MA-611), of the Office of Policy, within the Office of Acquisition and Project Management.

The DOE Merit Review Guide is issued and maintained by the Contract and Financial Assistance Policy Division and will be amended to add material or to revise existing material as necessary. Questions regarding specific topics in the Guide and suggested topics may be submitted to the Contract and Financial Assistance Policy Division.

Unsolicited financial assistance applications should be submitted in accordance with the guidance provided in the Guide for Submission of Unsolicited Proposals at <http://www.netl.doe.gov/business/usp/USPGuide.pdf>, and reviewed and evaluated according to the Noncompetitive Application Review guidance in Section VI of this guide.

Background: Each year DOE obligates nearly \$2 billion on financial assistance actions in the form of grants and cooperative agreements to states, local and tribal governments, universities, non-profit organizations, for-profit organizations, and individuals. The principal purpose of these transactions is the transfer of a thing of value, usually money but occasionally property or other items of value, to a recipient to accomplish an identified public purpose. DOE funds only those programs authorized by Federal statute. Financial assistance may be either discretionary or mandatory. Discretionary financial assistance means DOE provides funding to a recipient of DOE's choosing; DOE has the discretion to select a recipient as well as the size of the award. Mandatory financial assistance means DOE must provide the assistance to the entities named and

the amounts stated by statute. In accordance with Federal requirements, it is DOE policy that all discretionary financial assistance actions are to be awarded through a merit-based selection process. 10 CFR 600.13 provides the regulatory basis for this process and defines Merit Review as a “thorough, consistent and objective examination of applications based on pre-established criteria by persons who are independent of those individuals submitting the applications and who are knowledgeable in the field of endeavor for which support is requested.” In addition, the Energy Policy Act of 2005 requires that awards authorized under the Act be made only after an impartial review of the scientific and technical merit of the application.

The decision-making process for selection of financial assistance applications for award varies across DOE programs. While selection officials may make award decisions based solely on the merit review results, other considerations, such as evaluations provided by merit reviewers, program policy factors and the amount of funds available, often play an important role. In today’s funding environment, it is increasingly important to ensure that merit review evaluations and recommendations provide a sound basis for decision-making and that selection officials have the maximum amount of information useful to make their selection and funding decisions.

II. MERIT REVIEW

Purpose:

The primary purpose of a merit review is to provide an independent assessment of the technical/scientific merit of an application. Merit reviews are performed by person(s) who have knowledge and expertise in the technical/scientific fields identified or presented in the applications submitted to DOE.

Merit reviews may be designed in several formats and completed in different manners. For example, a merit review panel can consist of qualified Federal personnel that evaluate the technical/scientific merit of individual applications in accordance with the evaluation criteria and also rate the applications in accordance with the pre-established rating plan. Alternatively, the technical/scientific merit of individual applications can be evaluated by multiple teams of qualified non-Federal personnel that provide strengths and weaknesses in accordance with the evaluation criteria. These strengths and weaknesses would then be provided to the merit review panel of Federal personnel that determine consensus strengths and weaknesses and rate the applications in accordance with the pre-established rating plan. In either case, the Federal personnel provide the consensus rating for each application to be considered by the Selecting Official in determining which applications are selected to potentially fund.

Program offices may develop and implement internal procedures for conducting merit reviews consistent with the guidelines in this document. Program offices may also develop their own merit review procedures through a program rule. The program rule should include procedures that minimize the administrative burden on reviewers and be stated as clearly and succinctly as possible.

Merit review of financial assistance applications will be performed in accordance with [10 CFR 600.13](#) and the approved Evaluation and Selection Plan. All persons involved in the evaluation and selection process will be required to protect the confidentiality of any specifically identified trade secrets and/or privileged or confidential commercial or financial information obtained as a result of their participation in this evaluation. Information contained in the applications shall be treated in accordance with the policies and procedures set forth in [10 CFR 600.15](#).

III. MERIT REVIEW PARTICIPANTS

The Secretary of Energy has delegated the authority for selecting and appointing of Selection Officials to the DOE/NNSA Senior Procurement Executive (SPE). The SPE can delegate this authority to the Head of Contracting Activity (HCA) for actions at or below their current designated dollar thresholds. The Selection Official must be a DOE Federal employee and must not have conflicts of interest with any of the applicants. If the Program is working collaboratively with another agency the Selection Official can be an appointed Federal employee of the partnered agency. The Selection Official may not be a member of the Merit Review Panel.

The Selection Official should appoint a person from the program office as the Federal Merit Review (FMR) Chairperson of the Merit Review Panel. The Selection Official may appoint a person from the program office as a Federal Merit Review Co-Chairperson.

The FMR Chairperson is responsible for selecting the Merit Review Panel(s) members, overseeing the merit review process and all panel meetings, ensuring that the merit review procedures are followed consistently. Merit reviewers must be DOE Federal employees. These reviewers must be well qualified, by training, experience or both, in the particular scientific or technical fields that are the subjects of the FOA and applications being reviewed. Reviewers serve as advisors to the Selection Official, as their recommendations are not binding. In selection of reviewers, there should be no preference based on race, ethnic identity, gender, religion, region, age, or institutional affiliation.

Members of the Federal Merit Review Panel must be knowledgeable in the scientific or technical field that is the subject of the review. Generally, the Federal Merit Review Panel should always include at least one but preferably three qualified DOE Federal employees to serve as merit reviewers to review each application. More technically complex projects require a panel of at least three federal merit reviewers supplemented with peer reviewers to ensure diversity of perspectives and knowledge. Less complex activities and noncompetitive actions may have only one merit reviewer, if that person is sufficiently knowledgeable in the scientific or technical field of the applications. The Evaluation and Selection Plan for competitive actions should document the number of reviewers (both merit and peer), including a reason for using less than three federal merit reviewers. Merit reviews that involve a Federal Merit Review Panel are preferred over merit reviews that involve only one Federal Merit Reviewer. The Contracting Officer should serve on the Federal Merit Review Panel in an ex-officio capacity.

The Selection Official can use: **1) A Merit Review Panel made up of three or more DOE Federal employees; 2) A Peer Review Panel consisting of non-DOE federal employees and non-federal employees; or 3) DOE Federal employee(s) (1 or more) with the assistance of Peer Reviewers** to assist in evaluating applications to make selections.

Note: Source Selection Officials can make a determination on which applications to select after using peer reviewers who are non-Federal persons, but those peer reviewers cannot provide consensus and/or group advice back to the Source Selection Official regarding who to fund. The non-Federal peer reviewers must provide their individual advice to the Source Selection Official regarding the various proposals reviewed; they are not working to achieve group

and/or consensus advice. Any merit review panel on which non-Federal persons are serving must be carried out in compliance with the Federal Advisory Committee Act (FACA). For FACA-related questions, please consult with the Office of the Assistant General Counsel for General Law (GC-77).

Qualifications: The FMR Chairperson or DOE official responsible for selecting reviewers should consider the following qualifications when selecting reviewers:

1. The individual's scientific or technical education and experience (at least 5 years of experience in a relevant field);
2. The extent to which the individual has engaged in relevant work or research, the capacities in which the individual has done so, and the quality of such work or research.
3. Publications and patents, including having a significant number of peer-reviewed publications and/or patents in the technology being evaluated;
4. Other evidence that the person is a recognized expert in the field;
5. An advanced degree (e.g., Ph.D., Sc.D., D.Eng., M.S., or M.B.A.) in the relevant field; those with only a Bachelor's degree should have more experience and/or a record of accomplishments indicating their expertise in the field;
6. Relevant awards;
7. Key Society Memberships (e.g., member of the National Academy of Sciences or National Academy of Engineering; National Laboratory Fellow, etc.); and
8. The need for the review panel to include experts from various specialty areas within relevant scientific or technical fields.

The personnel assigned to serve as Federal Merit Review Panel members, Peer Reviewers, and ex-officio advisors will be listed in the *Merit Review Panel Appointment Letter* (Attachment 1). The list of personnel may be modified through an amendment to the letter. The list will be filed with the official FOA file of record and will not be made public.

While reviewers must have expertise in the technical/scientific areas addressed in the applications and sufficient knowledge to judge the merits of the application, the Federal Merit Review Panel shall not include anyone who, on behalf of the Federal government, provides assistance to the applicants; has any decision-making role regarding the applications; serves as Contracting Officer or performs business management functions for any selected project; audits the recipient of any selected project; or has any other conflict of interest. Merit reviewers may include DOE program managers or project officers responsible for the scientific or technical fields under review. However, it is highly recommended that reviewers from outside the program/project office responsible for the financial assistance program also be recruited.

If fewer than three reviewers are used, the Official responsible for the Merit Review shall document the reasons, obtain the approval of the Selection Official, and include this documentation in the Merit Review file.

The Federal Merit Review Chairperson, in coordination with the Contracting Officer, will ensure that pre-evaluation information is provided to all members of the Federal Merit Review Panel that is coincident with the initiation of the individual review and evaluation of applications.

The Contracting Officer, or their representative, and the Federal Merit Review Chairperson and/or technical leads for the program areas of interest should address issues that may be sensitive or critical to the successful completion of the review/evaluation of applications. At a minimum, they should:

1. Establish a common understanding of the FOA technical objectives and the review process;
2. Reiterate the Evaluation Process Guidelines;
3. Emphasize the importance of strict application of the evaluation criteria;
4. Emphasize the importance of adherence to the established schedule;
5. Emphasize the importance of providing clear, well written strengths and weaknesses; and
6. Provide instruction in writing strengths and weaknesses, including examples of both appropriate and inappropriate entries.

IV. CONFLICTS OF INTEREST AND CONFIDENTIALITY

All individuals participating in the merit review process shall protect the confidentiality of all information obtained as a result of their participation. Information contained in the applications will be treated in accordance with the policies and procedures set forth in [10 CFR Part 600.15](#).

All persons involved in the evaluation and selection process must read and sign the *Conflicts of Interest / Nondisclosure Acknowledgement* (Attachment 2), indicating an understanding of the obligations for participating in the Merit Review process. The reviewer must certify that he/she will not participate in the review of any financial assistance application involving a particular matter in which the reviewer has a conflict of interest or where a reasonable person may question the reviewer's impartiality. In addition, the reviewer must agree to disclose in writing any actual or perceived conflicts of interest as soon as the reviewer is aware of the conflict. Once signed, strict adherence to the terms of the acknowledgement is required. The DOE official responsible for the review and/or the Contracting Officer will be responsible for obtaining signed certificates from all members of the Federal Merit Review (FMR) Panel, Peer Reviewers, Program Policy Reviewers, Selection Official (SO), and other involved parties. Access to the applications by any person involved in the evaluation and selection process will only be granted after the Contracting Officer/Contracting Specialist has received a signed copy of the *Conflicts of Interest / Nondisclosure Acknowledgement* (Attachment 2). The certificates will be maintained as part of the official FOA file of record. Individuals with a conflict of interest may not participate in the merit review of a financial assistance application.

Each member of the Merit Review Panel (MRP) involved in the meritorious review of applications and preparation of program policy factors, including Federal Merit Review Panel members, Peer Reviewers, ex-officio members, Headquarters personnel who assist in the preparation and application of the program policy factors, and the Selection Official shall strictly adhere to the following guidelines:

- Reviewers shall not discuss the evaluation process with any unauthorized personnel.
- Reviewers shall not divulge their identities to any applicant.
- Reviewers shall not contact applicants.

- Reviewers shall not discuss the Panel proceedings outside of the independent Peer Review and the Federal Merit Review Panel meeting, even after the selection and award processes are completed.
- Reviewers shall not accept any invitations, gratuities (i.e., meals, gifts, favors, etc.), or job offers from any applicant. If an individual involved with the merit review process is offered any invitations, gratuities, or job offers by or on behalf of any applicant, the individual shall immediately report it to the Contracting Officer.
- Reviewers shall only evaluate information provided by the applicants in the applications and only evaluate against the published merit review criteria in the FOA. No additional criteria are to be considered by the Merit Review Panel.
- Typically, reviewers shall initially rate all applications independently and without consultation between reviewers.
- Reviewers will inform the Federal Merit Review Chairperson of any personal or organizational conflicts of interest arising out of applications they are asked to review.
- Reviewers may contact the Federal Merit Review Chairperson to obtain clarifications regarding the applications.
- Reviewers shall destroy all paper copies and delete all electronic copies of all applications after performing their duty.

A. CONFLICTS OF INTEREST

All Federal employees involved in the merit review process are subject to the statutory and regulatory provisions set forth in Title 18 of the U.S. Code and 5 C.F.R. 2635 et seq. Non-Federal employees are subject to the terms of their signed *Conflicts of Interest / Nondisclosure Acknowledgement* (Attachment 2A or 2B). Merit reviewers shall immediately notify the Federal Merit Review (FMR) Chairperson of any potential conflicts of interest or any circumstances that might give the appearance of a conflict of interest. Situations that could be perceived as conflicts of interest may include:

- The application being reviewed was submitted by a recent student; a recent teacher; a former employer; or a close personal friend or relative of the reviewer; the reviewer's spouse, or the reviewer's minor children.
- The application being reviewed was submitted by a person with whom the reviewer has had longstanding differences.
- The application being reviewed is similar to projects being conducted by the reviewer or by the reviewer's organization.

The FMR Chairperson or official responsible for the merit review, in consultation with the Contracting Officer and Legal Counsel, shall review instances of potential conflicts of interest ("COI"), organizational conflicts of interest ("OCI"), and appearances of conflicts of interest involving all members of the Merit Review Panel and will decide if a potential conflict is so remote or inconsequential that there is little or no likelihood that it will affect the integrity of the process. If the potential conflict of interest is significant, the official responsible for the review must avoid or mitigate the conflict. In most cases, reviewers will

not be allowed to review or participate in the deliberations on any application where there is even the appearance of a conflict of interest.

Merit Review Panel Members with a conflict of interest shall immediately notify the FMR Chairperson of the conflict of interest and comply with any mitigation measures required by the FMR Chairperson, including excusing themselves from all deliberations involving the application for which they have a conflict of interest.

B. CONFIDENTIALITY

Information and materials provided in applications are submitted to DOE for the purpose of application evaluation and may contain trade secrets and/or other privileged or confidential commercial or financial information. Except as provided in the Conflict-of-Interest/Non-Disclosure Acknowledgement, these materials must not be shared or discussed with individuals who are not participating in the same evaluation proceedings. Merit reviewers may not solicit opinions on particular applications or parts thereof from experts outside the pertinent merit review panel. There may be no direct communications between merit reviewers and applicants outside of the established review process. Any request for additional information or inquiries must be directed to the Contracting Officer or the DOE official responsible for the merit review process. Confidential business or privileged information in applications must not be used to the benefit of the reviewer. Merit reviewers may not inform principal investigators, their organizations, or anyone else of their evaluations or recommendations.

All materials, communications and work documents pertinent to the applications received and the review of these applications are privileged, pre-decisional communications and documents that are to be used only by DOE staff and the Merit Review Panel(s). These materials must not be shared or discussed with any other individuals. Merit reviewers must not inform principal investigators, their organizations, or anyone else of their evaluation and/or the resulting recommendations.

Confidentiality of the identity of merit reviewers is paramount in attracting and retaining well qualified individuals from all scientific disciplines to participate in merit reviews. A breach of confidentiality could compromise the integrity of the process and deter qualified individuals from serving as merit reviewers and inhibit those who do serve from engaging in free and full discussions. Additionally, breaches of confidentiality could deter potential applicants from participating in a FOA. **Therefore, it is DOE's policy to safeguard personal information concerning individual merit reviewers including, but not limited to, their names, credentials, affiliations, and status as reviewer for particular financial assistance awards. DOE will maintain confidentiality by not publicly releasing the names of the reviewers (including Committee of Visitors or other Review Boards) of a particular application/proposal unless required by law.**

V. EVALUATION AND SELECTION PLANS

The program officials must develop an Evaluation and Selection Plan that identifies criteria and subcriteria that an application will be evaluated against to ensure consistency in application evaluations/ratings and to outline/identify and document the financial assistance award selection process. The plan should be developed with the FOA and reviewed and finalized in coordination with CO prior to the release of the FOA. An Evaluation and Selection Plan is comprised of five

basic elements: (1) Merit Review Criteria (evaluation criteria/subcriteria) to be included in the FOA; (2) a rating system (e.g., adjectival, color coding, numerical, or ordinal); (3) evaluation standards or rating scale (descriptions which explain the basis for assignment of the various rating system grades/scores); (4) program policy factors that affect selection; and (5) the basis for selection. These elements are discussed below. A template for preparing an Evaluation and Selection Plan is provided in Attachment 3.

1) Merit Review Criteria: The DOE financial assistance regulations require that applications be evaluated against pre-established merit review criteria. These criteria form the only basis for the review of each application. When not following a program rule or statutory requirement, program officials should develop evaluation criteria for FOAs that include all aspects of technical/scientific merit. The idea is to develop criteria that are conceptually independent of each other, but all-encompassing when taken together. While criteria will vary from one FOA to another, the criteria should:

- Focus reviewers' attention on the project's underlying merit (i.e., significance, approach, and feasibility). The criteria should focus not only on the technical details of the proposed project but also on the broader importance or potential impact of the project.
- Be easily understood. If the criteria are susceptible to varying interpretations, reviewers will use their own interpretation.
- Be stated as clearly and succinctly as possible in the FOA.
- Be easily translated to application preparation instructions for the project narrative and other required application information.

Weighting: It may be appropriate to weight the evaluation criteria under some circumstances. Program officials should decide if and how the criteria should be weighted. If the evaluation criteria are weighted, the FOA must provide the weight or relative importance of each criterion. The evaluation and selection plan, the FOA and the instructions to the merit reviewers should clearly describe the weighting system to be used.

2) Rating System: A rating system is a schema to assist the merit reviewers in providing information to the selection official by allowing for the ranking or sorting of applications by an evaluation standard. Samples of types of rating systems include adjectival and numeric.

a. Adjectival Ratings - Adjectival ratings are a frequently used method of scoring or rating a financial assistance application. Adjectives are used to indicate the degree to which the application has met the standard for each factor evaluated. Subsequent to, and consistent with, the narrative evaluation, an appropriate adjectival rating may be given to each evaluation criteria and sometimes to each significant subcriterion. Adjectival systems may be employed independently or in connection with other rating

systems. Examples include excellent, good, satisfactory, marginal, unsatisfactory; Blue, Green, yellow, amber, red.

b. Numerical - This system assigns point scores (such as 0-10 or 0-100) to rate applications. This rating system may appear to give more precise distinctions of merit; however, numerical systems can have drawbacks as their apparent precision may obscure the strengths and weaknesses that support the numbers. As opposed to the adjectival and color coding systems, numeric systems can provide a false sense of mathematical precision which can be distorted depending upon the evaluation factors used and the standards applied. For example, if a standard indicated there could be no weaknesses, a very minor weakness in an application would force assignment of the next lower level rating. This would potentially cause a significant mathematical difference in the applications.

Note: While the adjectival and color coding systems may be the most difficult to use; they may be the most effective. The reason for the difficulty in use results from having to derive a consensus rating when, for example, one element is weighted at 50% with a Good (Green) rating and one element is weighted at 40% with an Excellent (Blue) rating. Under these systems, there is not a simple process to aid the evaluators to reach the consensus rating. The evaluators must assess the collective impact of evaluation sub-factors on each higher tier factor, and then assess the totality of the evaluation factors as they related to each other under the weighting methodology set forth in the FOA. This complexity forces the evaluators to thoroughly understand the strengths and weaknesses of each individual application in relation to the evaluation criteria and standards in order to reach consensus. While it is critical that this understanding is reflected in the narrative of the evaluation, this depth of understanding aids in the writing of the Record of Consensus Strengths and Weaknesses and the Merit Review Panel Chairperson's Report.

3) Evaluation Standards or Rating Scale

The FMR Chairperson should develop a rating scale from the chosen rating system that encourages reviewers to make the finest discriminations they can accurately evaluate.

a. Scale: Generally the rating scale should:

- Be defined so that larger scale values represent greater degrees of merit and smaller values represent smaller degrees (e.g. On a scale of 0 to 5, 5 represents the highest degree of merit and 0 represents an absence of merit).
- Include an appropriate number of scale positions to permit reliable differentiations among applications. If there are too many increments on the scale, the differences between increments may not be reliable or meaningful. If there are too few increments, the differences will not be apparent. The scale should have at least five steps (0-4) and not more than 11 steps (0-10).

- Include “zero”, “unacceptable” or an equivalent rating at the low end of the scale to offer reviewers a scale position that indicates a complete absence of merit relative to the criterion (factor) being rated.
- Induce reviewers to use the entire scale in order to make differentiations between applications.

b. Scale Definitions: The comparability of ratings across reviewers and review groups requires that all reviewers use the rating scale consistently. Thus, it will be helpful to the reviewers that the various scale positions be well defined so that all reviews are calibrated in the same way and so that an adjectival or numerical rating will represent the same cognitive appraisal by different reviewers. Program officials should clearly and, to the extent possible, accurately define the scale positions in their evaluation and selection plans.

c. Rating Method: Program officials should determine how the applications will be rated and describe the method in the Evaluation and Selection Plan. Specifically, program officials must decide:

1. Whether to assign a single rating of merit for the application or whether to rate each criteria separately.
 - Overall rating of merit: Under this system, merit reviewers assign a single, overall rating of merit for the application taking into consideration all the evaluation criteria.
 - Criteria ratings: Under this system, merit reviewers assign a separate rating to each criterion. An overall rating of merit may then be derived by averaging the criteria ratings, totaling the ratings, or assigning specific weights to the ratings and adding the totals. The plan must state if and how the overall rating of merit will be calculated.
2. Whether to use individual ratings or consensus ratings.
 - Individual rating method: Under this system, each reviewer prepares independent rating/ratings for each application based on the pre-established criteria. The merit review score is derived by averaging or totaling the merit reviewers’ overall ratings (see overall rating of merit and criteria rating above).
 - Consensus rating method: Under this system, the merit review panel develops a consensus rating/ratings based on the pre-established criteria and a consensus narrative critique for each application. The consensus rating/ratings reflect the collective opinion of all the merit reviewers regarding the scientific/technical merit of the application. Consensus can be reached by many means. The panel should discuss ways in which it will determine consensus prior to discussing the first application.

4) Program Policy Factors: Program Policy Factors may be used during the selection process to provide for consideration of factors that are not indicators of the application's merit. The purpose of considering these factors is to maximize the effectiveness of available Federal funding and to best achieve DOE program objectives. These factors should be as objective and clearly stated as possible. For example, program policy factors may reflect the desirability of selecting projects based on geographic distribution, diverse approaches, or complementary efforts. Such factors should be specified in the FOA, program announcement or program rule to notify applicants that factors essentially beyond their control will affect the selection process. A written justification of the application of the program policy factors should be prepared by the selection official or designated reviewer.

The following are examples of Program Policy Factors that may be used by the Selection Official (not inclusive of all factors that may be appropriate):

- It is desirable to select for award a group of projects which represents a diversity of technical approaches, methods, Applications and/or market segments;
- It may be desirable to support complementary and/or duplicative efforts or projects, which, when taken together, will best achieve the research goals and objectives;
- It may be desirable that different kinds and sizes of organizations be selected for Award in order to provide a balanced programmatic effort and a variety of different technical perspectives;
- It is desirable, because of the nature of the energy source, the type of projects envisioned, or limitations of past efforts, to select for award a group of projects with a broad or specific geographic distribution.

5) Basis for Selection: Selection, at a minimum, is based on the results of the merit review, application of program policy factors, and available funding. If there are other factors that will be considered by the Selection Official, they should be identified in the Evaluation and Selection Plan and the FOA.

VI. APPLICATION REVIEW PROCESS

A. Competitive Application Reviews

All applications that are received by the application due date and time, as specified in the FOA, will be subjected to the review process as outlined in the DOE Financial Assistance Guide. Applications are first subjected to an initial review and then, upon satisfactorily passing the initial review, they will be subjected to a comprehensive evaluation (Merit Review). In the event that an application is untimely (i.e., late) and deemed ineligible for consideration, the Contracting Officer will promptly notify the applicant in writing that the application cannot be considered for award. An application is late if the date and time stamp for submission into the system is after the stated closing date and time. A late application may be reviewed if the applicant provides sufficient evidence of technical issues that the system's Help Desk failed to resolve prior to the receipt date and time.

The Contracting Officer and the Co-Federal Merit Review Chairperson will verify that all applications received have been reviewed and validated, and that any exceptions for receipt of applications have been reviewed.

1. Review of Pre-Applications or Letters of Intent

Although not part of the Merit Review process, if Pre-Applications or Letters of Intent will be required for submittal, the FMR Chairperson (or Co-Chairperson) should review them according to the FOA and Evaluation and Selection Plan to help organize and expedite the merit review process. Applicants that fail to submit Pre-Applications or Letters of Intent when required by the FOA may be determined to be non-responsive and not be eligible to submit an application.

2. Initial Compliance Review

Prior to conducting the comprehensive merit review, an initial compliance review will be performed according to the Financial Assistance Guide to determine whether: 1) the Applicant is eligible for an award; 2) the information required by the FOA has been submitted; 3) all mandatory requirements of the FOA are satisfied (See the FOA for specific mandatory requirements); and 4) the proposed project is responsive to the program objectives of the FOA (program determination). The initial review may be performed by the Contracting Officer or designated program official.

As initially determined by the Contracting Officer and FMR Chairperson, if an applicant or application clearly fails to meet the requirements and objectives of the FOA or does not provide sufficient information for evaluation, the application will be considered non-responsive and eliminated from further review. Prior to being determined non-responsive and ineligible for consideration for award, the concurrence of the Contracting Officer and Legal Counsel is required. The Contracting Officer will inform the applicant by letter of the reason(s) why the application is ineligible for further consideration.

The results of the initial review will be documented on the *Record of Initial Compliance Review* (Attachment 5), as tailored for the specific requirements of the published FOA.

3. Comprehensive Merit Review

All timely applications that have been determined, through the Initial Compliance Review, to meet the minimum application qualifications will be eligible for comprehensive Merit Review evaluation in accordance with the technical rating standards identified in Attachment 6 - *Evaluation Criteria and Rating Scale* and the criteria set forth in the FOA. This review should be a thorough, consistent and objective examination of applications based on the pre-established evaluation criteria set forth in the FOA and Evaluation and Selection Plan.

Peer Reviewers and Federal Merit Review Panel Members should be notified of applications assigned to them by the FMR Chairperson. A copy of each assigned application should be made available to each reviewer only after their signed Conflict of

Interest and Nondisclosure Acknowledgement has been received by the CO or FMR Chairperson. In addition, each reviewer should receive an explanation of the Merit Review process, a copy of the criteria and Evaluation and Selection Plan, and an explanation of scoring/rating standards.

The comprehensive review is generally conducted in two stages: independent review conducted by Federal and/or Peer Reviewers and consensus review conducted by the Federal Merit Review Panel.

Note: Source Selection Officials can make a determination on which applications to select after using peer reviewers who are non-Federal persons, but those peer reviewers cannot provide consensus and/or group advice back to the Source Selection Official regarding who to fund. The non-Federal peer reviewers provide their individual advice to the Source Selection Official regarding the various proposals reviewed; they are not working to achieve group and/or consensus advice. Any merit review panel on which non-Federal persons are serving must be carried out in compliance with FACA. For FACA-related questions, please consult with the Office of the Assistant General Counsel for General Law (GC-77).

a. Independent Review

At a minimum, three (3) qualified individual reviewers will review each application. Any combination of Federal or Peer Reviewers can satisfy the requirement for three (3) independent reviews. In the unanticipated instance that fewer than three (3) reviewers review a particular application, the reason will be documented in the Chairperson's Report.

After applications are assigned to them, each reviewer shall independently review each application against the criteria published in the FOA and provide written documentation of the strengths and weaknesses for each criterion. Applications will be rated according to the *Evaluation Criteria and Rating Scale* (Attachment 6). Independent Reviewers will record their individual ratings (numeric, adjectival, or specified rating scale) and strengths and weaknesses on the *Individual Rating Sheet* (Attachment 7). With the completion of the Independent Review, each reviewer should be prepared to discuss each application's strengths and weaknesses as requested by the Federal Merit Review Panel.

Reviewers are responsible for destroying any printed or electronic copies of applications following the disbanding of the Panel. Any downloaded copies of applications must be deleted from reviewers' computer hard drives, compact disks, or other electronic media.

b. Consensus Review (Federal Merit Review Panel)

Following completion of the independent review, the Federal Merit Review Panel will meet to discuss the individually identified strengths and weaknesses of each

application and coordinate the development of the Panel's consensus strengths and weaknesses of each application, based on the established evaluation criteria. At least one member of the Federal Merit Review Panel should have a comprehensive familiarity with the content and science/technology of each application.

The Federal Merit Review Panel Members may consider the input from the Advisory Independent Reviewers (Peer reviewers and Ex-officio Advisors if provided) as well as the results of their own independent reviews to develop an initial set of consensus strengths and weaknesses. Unless specifically allowed by statute, the Peer Reviewers may not provide consensus scores or consensus comments to the Federal Merit Review Panel. However, at the Federal Merit Review Panel's discretion, all or a subset of the Peer Reviewers may be invited to present their individual scores and identified strengths and weaknesses so the Federal Merit Review Panel may discuss the Peer Reviewers' comments and better understand the Peer Reviewers' individual scores and comments. The Federal Merit Review Panel will dismiss all non-Federal reviewers prior to making any decisions regarding recommendations to the Selection Official for award selection or establishment of the selection range.

Through its deliberations, the Federal Merit Review Panel will determine if there are any divergent opinions that should be addressed before the consensus scores, strengths and weaknesses are recorded.

The FMR Chairperson must be diligent in assuring that the ratings developed by the Federal Merit Review Panel are consistent with the established evaluation criteria. Ensuring consistency requires extra diligence if there are multiple Federal Merit Review Panels, due to a large number of applications.

The Federal Merit Review Panel should then assign a consensus rating to each application. The Panel should provide written documentation of their consensus strengths and weaknesses on the *Record of Consensus Strengths and Weaknesses* (Attachment 8). The Federal Merit Review Panel should also develop consensus scores for each criterion based on their deliberations and document the total score of each application on the *Record of Consensus Scores for All Applications* (Attachment 9).

Once the final scores have been assigned, the Federal Merit Review Panel will propose a range of scores that will constitute applications recommended for selection. This selection range will determine the order in which applications will be recommended to the Selection Official for negotiation of an award.

If the Federal Merit Review Panel determines that pre-selection clarifications are necessary from some or all of the applicants, the Federal Merit Review Panel should assign First Round Merit Review Scores to all the applicants and establish a "First Round Finalist's Line," above which are "finalists" (whose applications have been determined by the Federal Merit Review Panel to be meritorious and require pre-selection clarifications) and below which are "non-finalist" applicants (whose applications have been deemed by

the Federal Merit Review Panel to be not technically acceptable and therefore do not require any clarifications). If any finalists are invited to participate in pre-selection clarifications, then all finalists must be invited to assure that the decision regarding which applicants participate in pre-selection clarifications was made in a fair and equitable way.

The Federal Merit Review Panel will decide, with concurrence from the Contracting Officer and Legal Counsel, upon the nature, format, and technical scope of the pre-selection clarifications and all finalists will be given the same opportunity to provide the same types of clarifying information to DOE within the same time limits and format parameters.

These pre-selection clarifications will be used for the purposes of clarifying the applications, not supplementing the applications, and may take the form of one or more of the following procedures: written responses to written clarification questions, telephone conference calls, video conference calls, in-person meetings or presentations at DOE and/or at applicants' sites). Both Federal Merit Review Panel's ex-officio and peer reviewers may participate in the pre-selection clarifications, but they must not reach consensus regarding any of the applicants and must be recused from any Federal Merit Review Panel consensus discussions or conclusions. In addition, the Evaluation Guidelines set forth earlier in the Evaluation and Selection Plan must continue to be followed for pre-selection clarifications.

At the conclusion of the pre-selection clarifications, the Federal Merit Review Panel should document the results of the clarifications in the Record of Consensus Strengths and Weaknesses; assign final consensus scores to the finalists and document the final score in the Record of Consensus Scores for All Applicants; and document the clarification process and the results in the Merit Review Advisory Report. At the Federal Merit Review Panel discretion, it may establish another line above which will be those Finalists whose clarified applications are deemed technically acceptable and are therefore recommended for selection by the Selection Official.

Both the First Consensus Merit Review Scores and the Final Round Merit Review Scores should be presented to the Selection Official as part of the Merit Review Advisory Report. In making the selections, the Selection Official may apply program policy factors to make selections below either line on either score sheet.

If specified in the FOA, a budget evaluation (which is not point scored or part of the technical scoring) will be conducted after the consensus review meeting on the most highly rated application(s). The Federal Merit Review Chairperson is responsible for having this preliminary budget evaluation completed, and should rely on other project management personnel assigned to the panel. The budget evaluation serves to provide the Selection Official and management personnel with an understanding of the annual funding requirements for the suite of potential awards, as well as cost realism of the budget estimate, appropriateness and reasonableness of resources, and reasonableness and feasibility of the schedule relative to the Applicant's Statement of Project Objectives (SOPO). The budget evaluation would validate or confirm the merit ratings of the review panel, where scope, schedule and cost are reasonably aligned. Importantly, the budget evaluation provides some initial insight to project-related risk, beyond those dealing with

technical uncertainty, which should be considered prior to award. Deficiencies, as well as suggested adjustments, should be noted for possible negotiation purposes and to assist with completion of the detailed Technical Evaluation of the budget supporting any Cost/Pricing Reports and/or cost analysis by the Contracting Officer or Specialist, if an application is selected for award. Although the budget evaluation does not affect the technical score, the results can be used by the Selection Official as a deciding factor. See *Budget Evaluation* (Attachment 11).

B. Noncompetitive Application Review

An Evaluation and Selection Plan is not required for noncompetitive financial assistance applications as the funding of these application depends on: 1) if the application satisfies one on more of the selection criteria set forth in 10 CFR Part 600.6(c); 2) the determination and award is approved according to the requirements set forth in 10 CFR Part 600.6(d); 3) the results of the merit review; and 4) the availability of funds. If the application is accepted as an unsolicited, the conditions set forth in 10 CFR Part 600.6(c)(7) must be also satisfied.

Noncompetitive applications should be evaluated in accordance with the following:

1. Determination for Noncompetitive Financial Assistance (DNFA)

Prior to initiating a merit review of a noncompetitive financial assistance application, the program official must determine that the application satisfies one on more of the selection criteria set forth in 10 CFR Part 600.6(c). This determination must be approved by the individuals identified in 10 CFR Part 600.6(d). If the application is accepted as an unsolicited, the conditions set forth in 10 CFR Part 600.6(c)(7) must be satisfied. A DNFA should be prepared, approved and filed in the official award file.

2. Official Responsible for the Review:

The official responsible for the review must:

- Select qualified reviewer(s).
- Obtain Conflict of Interest/Non-Disclosure Acknowledgements (Attachment 2) from each merit reviewer prior to beginning the review.
- Ensure that the reviewers have a copy of this review plan and understand the process, their role, and the criteria upon which the application(s) are to be evaluated.
- Provide reviewers copies of the application(s) and instructions for protecting and returning them.
- Ensure that each reviewer follows this review plan and provides a sound, well documented evaluation.
- Record the individual ratings, if applicable, and calculate the score.
- Prepare a summary statement for the application, which summarizes the evaluation and the recommendations of the individual merit reviewers.
- Maintain all merit review documentation.

3. Merit Review Criteria

The merit review criteria for noncompetitive financial assistance applications may vary depending on each program but should be based at least on the following criteria:

- a. Significance:** The extent to which the project, if successfully carried out, will make an important and/or original contribution to the field of endeavor.
- b. Approach:** The extent to which the concept, design, methods, analyses, and technologies are properly developed, well-integrated, and appropriate to the aims of the project.
- c. Feasibility:** The likelihood that the proposed work can be accomplished within the proposed time and budget by the investigators or the technical staff, given their experience and expertise, past progress, available resources, institutional/organizational commitment, and (if appropriate) access to technologies.

4. Review Process

Each Merit Reviewer must independently review the application and complete the *Review Form for Noncompetitive Applications* (Attachment 4A). Reviewers should:

- Provide a narrative critique (i.e., written comments) for each of the evaluation criteria. Reviewers should note any unusually high or low cost-effectiveness under the feasibility criterion
- Indicate whether the application has merit based on the consideration of the evaluation criteria or adopt a rating scale and provide the scale and overall score for the evaluation criteria.
- Provide a recommendation for funding.
- Provide contact information (phone number, email address)
- Sign and date the review form.

5. Summary Statement

The official responsible for the review will prepare a summary statement of the review process of the application. The summary statement is the official merit review record and provides the selection official an assessment of the technical/scientific merit of the application. A template for the Summary Statement is attached.

The template for the *Noncompetitive Review Plan*, *Noncompetitive Application Review Form*, and *Summary Statement* are provided at Attachment 4.

VII. MERIT REVIEW ADVISORY REPORT

The purpose of the Merit Review Advisory Report is to document the application evaluation process, present the findings of the Merit Review Panel and recommend applications that merit funding to the Selection Official.

The FMR Chairperson shall provide the complete report for review and obtain concurrence from the Contracting Officer and Legal Counsel, prior to submitting the report to the Selection Official.

The report should typically include four sections - one to establish the purpose of the report, a second to document the Initial Compliance Review performed, a third to record the merit review process used and any deviations, and a fourth that contains a draft Selection Statement for execution by the Selection Official (see attachment 12). In addition, relevant attachments should be included for review, as referenced below:

Section 1 should include the following:

- a. A brief statement as to the purpose of the Merit Review Advisory Report; and
- b. A brief summary of the number of applications received and the number deemed technically acceptable by the Federal Merit Review Panel for selection for negotiation of an award.

Section 2 should include the following:

- a. A list of applications rejected in the Initial Compliance Review, if any; and
- b. A list of the reasons why these applications were rejected and not comprehensively reviewed.

Section 3 should include the following:

- a. The number of members on the Federal Merit Review Panel and the number of Peer Reviewers, their names, contact information and a brief discussion of their qualifications; a statement that all applications were independently evaluated in accordance with the requirements contained herein; and a statement that all Panel members, including ex-officio members, signed a Confidentiality and Conflict of Interest Certification and Acknowledgement. See *Conflict of Interest and Nondisclosure Acknowledgment* (Attachment 2);
- b. A discussion of the Peer Review process for all applications;
- c. Details of the Federal Merit Review Panel meeting and the process followed, including a discussion of any deviations, such as issues with conflict of interest;
- d. A discussion of the development of consensus scores for each application, the ranking process, the number of applications deemed technically acceptable, any pre-selection clarifications, and any observations or findings that impacted the decision regarding the acceptable selection range; and
- e. Details of the Panel's rationale for the selection range and a reference to the final list of applications deemed technically acceptable in *Record of Consensus Scores for All Applications* (Attachment 9).

Section 4 should include the following:

- a. A request for action from the Selection Official regarding application of the program policy factors and selection of applications for negotiation of award; and
- b. Instructions regarding these actions and subsequent communication of the Selection Official's decision to the Contracting Officer (including submittal of the *Selection Statement* (Attachment 10).

Attachments to the Merit Review Advisory Report should include the following:

- *Record of Consensus Strengths and Weaknesses* (Attachment 8) for each application;
- *Record of Consensus Scores for All Applications* (Attachment 9);
- *Selection Statement* (Attachment 10);

Other documents used during the Merit Review process that should be included in the official FOA file, including:

- *Signed Conflict of Interest and Nondisclosure Acknowledgments* (Attachment 2);
- *Merit Review Panel Appointment Letter* (Attachment 1);
- *Individual Rating Sheet* (Attachment 7);
- Other relevant documents used during the Merit Review.

Merit Review Report for Non-Competitive Applications

For non-competitive applications, including renewal applications, the report to the Selection Official should follow the guidance in Section VI and include the Noncompetitive Application Review Forms and Summary Statement found in Attachment 4. Additionally, a Selection Statement will be prepared to document the Selection Official's selection of the noncompetitive project.

VIII. PROGRAM POLICY FACTORS

Each application deemed technically acceptable by the Federal Merit Review Panel may receive a program policy review.

The program policy factors will not be point scored, but the Selection Official may consider them in making the selections for negotiation of award. The Selection Official may request that an independent person(s) (i.e., not member(s) of the Merit Review Panel) provide assistance in the application of the program policy factors. These factors, while not indicators of the application's merit, (e.g., technical excellence, cost, applicant's ability, etc.) nevertheless, may be essential to the process of selecting the application(s) that, individually or collectively, will best achieve the

program objectives. Such factors are often beyond the control of the applicant. The Selection Official will evaluate applications based on the program policy factors listed in the FOA.

The following are examples of Program Policy Factors that may be used by the Selection Official (not inclusive of all factors that may be appropriate):

- It is desirable to select for award a group of projects which represents a diversity of technical approaches, methods, Applications and/or market segments;
- It may be desirable to support complementary and/or duplicative efforts or projects, which, when taken together, will best achieve the research goals and objectives;
- It may be desirable that different kinds and sizes of organizations be selected for Award in order to provide a balanced programmatic effort and a variety of different technical perspectives;
- It is desirable, because of the nature of the energy source, the type of projects envisioned, or limitations of past efforts, to select for award a group of projects with a broad or specific geographic distribution.

IX. SELECTION

The *Record of Consensus Scores for All Applicants* (Attachment 9) and application of the program policy factors should be considered by the Selection Official in determining the optimum mix of applications that will be selected for award negotiations. The Selection Statement should specify a ranked order of applications recommended by the Merit Review Panel for negotiations of award.

The Selection Official must complete the *Selection Statement* (Attachment 10). The Selection Official must document all selections with a written narrative, noting which program policy factors, if any, were applied in making the selections. The Selection Official shall notify the Contracting Officer in the Selection Statement of the applications designated as “alternates.” In addition, the Selection Official may identify negotiation strategies, if any, in the second page of the Selection Statement entitled “Negotiation Strategy.”

The Selection Official must sign the Selection Statement. Concurrence from Legal Counsel and the Contracting Officer is required for the Selection Statement before it can be finalized.

The FMR Chairperson or Co-Chairperson will forward the signed Selection Statement to the Contracting Officer.

X. NOTICE TO UNSUCCESSFUL APPLICANTS

Unsuccessful applicants should be notified in writing that their applications were not selected for negotiation of an award, and they should be provided with an explanation of why they were not selected (e.g., written strengths and weaknesses). After consultation with the Contracting Officer, the FMR Chairperson should prepare and sign the notification to the unsuccessful applicants, to reduce the administrative burden for the Selection Official. Copies of these notifications must be sent to the Contracting Officer or Specialist for the official FOA record.

Notifications should include the consensus strengths and weaknesses as determined by the Federal Merit Review Panel. The notification to unsuccessful applicants will not include the scores of the application, Peer Reviewer comments or scores, or the relative standing of the application in comparison to other applications.

XI. RECORDS

The Contracting officer and/or Contract Specialist will retain a master record of the FOA and appropriate documentation, including signed Conflict of Interest and Nondisclosure Acknowledgment forms, Initial Compliance Review results, Federal Merit Review Panel results, Merit Review Advisory Report, Record of Consensus Strengths and Weaknesses, Record of Consensus Scores, Selection Statement, Noncompetitive Review documents, letters to successful and unsuccessful applicants, and copies of unsuccessful applicants notifications (if applicable). The master record will be retained in STRIPES.

XII. GLOSSARY

Application: A written request for financial assistance.

Award: The written document executed by a DOE Contracting Officer, after an application is selected for negotiation, which contains the terms and conditions for providing financial assistance to the recipient.

Continuation Award: a non-competitive award for a succeeding or subsequent budget period after the initial budget period of an approved project period. Funding for continuation awards is contingent on DOE approval of a continuation application. The content of the continuation application should be included in the agreement's terms and conditions

Discretionary Award: An award under authority of a Federal statute that permits DOE to exercise judgment in selecting the recipient and the project to be supported and in determining the amount of the award.

Financial Assistance: Transfer of money or property to a recipient or subrecipient to accomplish a public purpose of support or stimulation authorized by Federal statute through grants or cooperative agreements and subawards. In DOE, it does not include direct loans, loan guarantees, price guarantees, purchase agreements, Cooperative Research and Development Agreements (CRADAs), or any other type of financial incentive instrument.

Funding Opportunity Announcement (FOA): A document requesting the submission of applications for financial assistance. The FOA describes program objectives, recipient and project eligibility requirements, desired performance activity, evaluation criteria, award terms and conditions, and other relevant information about the financial assistance opportunity.

Merit Review: A thorough, consistent, and objective examination of applications based on pre-established criteria by persons who are independent of those submitting the application and who are knowledgeable in the field of endeavor for which support is requested.

Narrative Critique: Written comments on the strengths and weaknesses of an application with respect to each of the evaluation criteria.

Principal Investigator: The researcher, scientist, or other individual designated by the recipient to direct the research and development aspect of the project.

Program Official: The DOE person responsible for managing the financial assistance program, usually a DOE program manager or project director.

Program Policy Factors: Factors that, while not appropriate indicators of the application's merit, are essential to the process of choosing which applications will best achieve the program objectives. For example, program policy factors may reflect the desirability of selecting projects based on geographic distribution, diverse approaches, or complementary efforts. Such factors should be specified in the FOA or program rule to notify applicants that factors essentially beyond their control will affect the selection process.

Program Rule: A rule issued by a DOE program office for the award and administration of financial assistance which may describe the program's purpose or objectives, eligibility requirements for applicants, types of program activities or areas to be supported, evaluation and selection process, cost sharing requirements, etc. These rules usually supplement the general policies and procedures for financial assistance contained in 10 CFR 600.

Project Period: The total period of time indicated in an award during which DOE expects the Recipient to perform to the Statement of Project Objectives or Project Scope in exchange for financial assistance. The period established in the award during which Federal sponsorship begins and ends. If an award is terminated before the end of the period previously established in the award, the project or program period ends at the time the termination takes effect.

Ranking Sheet: A chart which ranks the applications reviewed by merit review scores from the highest to the lowest.

Renewal Award: Renewal awards "add" one or more budget periods and extend the project period. Discretionary renewal awards may be made on the basis of a solicitation; or on a noncompetitive basis when reviewed for merit and justified in accordance with [10 CFR 600.6\(c\)](#), Eligibility. Renewal applications should be submitted no later than six months prior to the scheduled expiration of the project period unless a program rule or other document establishes a different application deadline. Before DOE may make a renewal award or a formula award, the recipient must submit a revised or amended State plan in accordance with program rules and other instructions from DOE.

Score: The consolidated number or adjective that reflects the overall evaluation of scientific/technical merit of all the merit reviewers of a specific application. For example, the score may be the average rating, totaled ratings of a set of individual reviewers, or the overall consensus rating of a set of reviewers.

Summary Statement: The official merit review record of a noncompetitive financial assistance request for support. It contains the reviewers' assessment of the scientific/technical merit of the application.

Unsolicited Proposal: A written request for DOE support of a project which is submitted without a solicitation or FOA issued by DOE.